

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte MARIA RAIDEL, FRANZ ASCHENBRENNER  
AND JAN ULLMAN

MAILED

OCT 18 2006

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Application No. 10/049,891

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on October 3, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

**EXAMINER'S ANSWER**

A review of the Examiner's Answer reveals that it is not in compliance with the *Grounds of Rejection* section as set forth in the Manual of Patent Examining Procedure (MPEP) § 1207.02 (8<sup>th</sup> ed., rev. 1, Feb. 2003).

The Appeal Brief filed September 22, 2006 only appeals the rejection of claims 44, 82 and 83 under 102(b) as being unanticipated by Lassen et al. EP 0687453. The Examiner's Answer includes a discussion of all claims originally rejected rather than only those claims on appeal.

It is important for the Examiner in the opening statement to identify that the Examiner's Answer is a correction of the record in response to the Order Returning from the Board of Patent Appeals and Interference and requires no response or communication from the Appellant. Correction is required.

### **EVIDENCE RELIED UPON**

The Evidence Relied Upon section should only include references and supporting documents used to reject the claims as well as documents cited to support the rejections for the claims on appeal.

### **CONCLUSION**

Accordingly, it is

**ORDERED** that the application is returned to the Examiner:

- 1) issue a corrected Examiner's Answer that corrects the Grounds of Rejection, and Evidence Relied Upon sections;
- 2) advise appellant that the corrected Examiner's Answer is to only correct the record and no reply is necessary; and
- 3) for such further action as may be appropriate.

## **BOARD OF PATENT APPEALS AND INTERFERENCES**

By: Patrick J. Nolan  
PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
(571) 272-9797

cc: SENNIGER POWERS  
ONE METROPOLITAN SQUARE  
16TH FLOOR  
ST LOUIS, MO 63102